

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

OREN JAMES JONES,
Inmate No. 1632157,
Petitioner,

v.

WILLIAM STEPHENS,
Director, TDCJ-CID,
Respondent.

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No. 3:14-CV-3759-P


**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE, AND
DENYING A CERTIFICATE OF APPEALABILITY**

The United States Magistrate Judge has issued Findings, Conclusions and Recommendation (“FCR”) in this case. Petitioner has filed objections to the FCR in which he asserts that he is actually innocent and that he is entitled to equitable tolling. (*See* Written Objection, doc. 7.) After reviewing all relevant matters of record in this case, including the FCR and the objections to the FCR, in accordance with 28 U.S.C. § 636(b)(1), the Court finds that the Findings and Conclusions of the Magistrate Judge are correct. Petitioner has not made a sufficient showing of actual innocence. Nor has he shown rare or exceptional circumstances to warrant equitable tolling. The Court has conducted a de novo review and determination as to the issues to which Petitioner has specifically objected. Having reviewed the remainder of the Findings, Conclusions, and Recommendation of the Magistrate Judge for clear error, it is satisfied that there is no clear error on the face of the record. Accordingly, the Court hereby **ACCEPTS** the Findings and Conclusions of the Magistrate Judge as the Findings and Conclusions of the Court. And pursuant to Rule 4 of the Rules Governing Section 2254 Cases, it **DISMISSES** the petition for writ of habeas corpus with prejudice as barred by the statute of limitations.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court **DENIES** a certificate of appealability. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions and Recommendation filed in this case in support of its finding that Petitioner has failed to show that (1) reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong" or (2) reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).¹

In the event Petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED this 27th day of April, 2015.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

¹As amended on December 1, 2009, Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts reads as follows:

(a) Certificate of Appealability. The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2). If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) Time to Appeal. Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability.